

OBERTHALER, DAVID M
8980 BIRCHWOOD DR.
TWINSBURG, OH 44087

Plaintiff

Case No CV-2008-05-4061 2

vs

SUMMONS

RECEIVED

JUN 12 2008

AMERISTEP CORPORATION
LARRY C. WEHNER
901 TACOMA CT.
CLIO, MI 48420

Defendant

To the following named defendants:

GANDER MOUNTAIN COMPANY
C/O ITS STATUTORY AGENT
CT CORPORATION SYSTEM
1300 E. 9TH ST.

You have been named defendant(s) in a complaint filed in Summit County Court Of Common Pleas, Summit County Court House, Akron Ohio 44308, by :

OBERTHALER, DAVID M.
8980 BIRCHWOOD DR
TWINSBURG, OH 44087

Plaintiff(s). A copy of the complaint is attached herelo. The name and address of the plaintiff's attorney is:
DAVID M. PARIS,
1370 ONTARIO AVE.
SUITE 100
CLEVELAND, OH 44113

You are hereby summoned and required to serve upon the plaintiff's attorney, or upon the plaintiff, if he has no attorney of record, a copy of an answer to the complaint within twenty-eight days after service of this summons on you, exclusive of day of service. Your answer must be filed with the Court within three days after the service of a copy of the answer on the plaintiff's attorney, or upon the plaintiff, if he has no attorney of record.

If you fail to appear and defend, judgment by default may be rendered against you for the relief demanded in the complaint.

Daniel M. Horrigan
Clerk, Court Of Common Pleas
Summit County, Ohio

May 30, 2008

By: s/ M. Randles Deputy Clerk

DANIEL M. HOPKINSON

2008 MAY 28 PM 1:36

SUMMIT COUNTY
CLERK OF PLEAS
COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

David M. Oberthaler
8980 Birchwood Drive
Twinsburg, Ohio 44087

Plaintiff,

-VS-

Ameristep Corporation
c/o Its Statutory Agent
Larry C. Wehner
901 Tacoma Court
Clio, Michigan 48420

and

Gander Mountain Company
c/o Its Statutory Agent
CT Corporation System
1300 East 9th Street
Cleveland, Ohio 44114

and

JOHN DOE AND/OR JOHN DOE INC.
Name Unknown
Address Unknown
Manufacturer, Designer, Supplier,
Of Tree Step Sold By
Gander Mountain Company

and

JOHN FOE AND/OR JOHN FOE INC.
Name Unknown
Address Unknown
Manufacturer, Designer, Supplier,
Of Tree Step Sold By
Gander Mountain Company

Case Number:

2008 05 4061

Judge:

ASSIGNED TO JUDGE GALLAGHER

COMPLAINT

(Jury demand endorsed herein)

NURENBERG, PARIS, HELLER & MCCLARTY CO., L.P.A.
1370 ONTARIO STREET • SUITE 100 • CLEVELAND, OHIO 44113-1792

(216) 621-2300

and)

JOHN GOE AND/OR JOHN GOE INC.)

Name Unknown)

Address Unknown)

Manufacturer, Designer, Supplier,)

Of Tree Step Sold By)

Gander Mountain Company)

and)

JOHN HOE AND/OR JOHN HOE INC.)

Name Unknown)

Address Unknown)

Manufacturer, Designer, Supplier,)

Of Tree Step Sold By)

Gander Mountain Company)

and)

JOHN JOE AND/OR JOHN JOE INC.)

Name Unknown)

Address Unknown)

Manufacturer, Designer, Supplier,)

Of Tree Step Sold By)

Gander Mountain Company)

and)

JOHN KOE AND/OR JOHN KOE INC.)

Name Unknown)

Address Unknown)

Manufacturer, Designer, Supplier,)

Of Tree Step Sold By)

Gander Mountain Company)

and)

JOHN LOE AND/OR JOHN LOE INC.)

Name Unknown)

Address Unknown)

Manufacturer, Designer, Supplier,)

Of Tree Step Sold By)

Gander Mountain Company)

Defendants.)

1. The plaintiff, David M. Oberthaler, at all times pertinent hereto, resides at 8980 Birchwood, City of Twinsburg, County of Summit, State of Ohio.

2. The defendant, Ameritstep Corporation, is and was a corporation formed and existing under the laws of a State other than Ohio, did substantial business in the State of Ohio and derived substantial revenue from doing business in Ohio.

3. The defendant, Gander Mountain Company, is and was a corporation formed and existing under the laws of a State other than Ohio, did business in Ohio and derived substantial revenue from doing business in Ohio. At all times pertinent hereto, defendant, Gander Mountain Company, operated retail establishments in Summit County, Ohio.

4. The defendants, John Doe and/or John Doe, Inc., John Foe and/or John Foe, Inc., John Goe and/or John Goe, Inc., John Hoe and/or John Hoe, Inc., John Joe and/or John Joe, Inc., John Koe and/or John Koe, Inc., John Loe and/or John Loe, Inc., whose real names and addresses cannot be ascertained at this time despite due diligence of counsel, were the manufacturers, designers, and/or suppliers of tree steps sold by defendant, Gander Mountain Company.

5. On or about December 29, 2006, plaintiff was using a tree step purchased by the plaintiff at Gander Mountain in Summit County, Ohio to climb a tree when the tree step suddenly and unexpectedly failed, splitting in two, causing plaintiff to fall to the ground. The fall occurred in Summit County, Ohio. Therefore, venue is proper in Summit County, Ohio.

6. Plaintiff brings this claim for relief against defendants, Ameristep Corporation, Gander Mountain Company, and the John Doe Defendants for product liability under Ohio Revised Code Section 2307.71 et seq. At all times pertinent hereto, defendant, Ameristep Corporation, was the manufacturer of the tree step as that term is defined under Ohio Revised Code Section 2307.71 and Gander Mountain

Company was the supplier of the tree step as that term is defined under Ohio Revised Code Section 2307.71.

7. The tree step was defective in manufacture and construction as defined in Ohio Revised Code Section 2307.74, defective in design or formulation as defined in Ohio Revised Code Section 2307.75, and/or were defective due to inadequate warnings or instruction as defined in Ohio Revised Code Section 2307.76 and/or did not conform to the representations made by the manufacturer as defined in Ohio Revised Code Section 2307.77.

8. The defendant, Gander Mountain Company, was the supplier of the tree step as defined in Ohio Revised Code Section 2307.71 and placed the tree step in the stream of commerce. The defendant, Gander Mountain Company, was negligent in the supply, sale and distribution of the tree step as set forth in Ohio Revised Code Section 2307.78. Further, when the tree step left the control of the defendant, Gander Mountain Company, it did not conform to representations made by the defendant, Gander Mountain Company.

9 Each of the defective conditions of the tree step, as described above, pursuant to Ohio Revised Code Section 2307.73, were a proximate cause of the harm for which plaintiff seeks to recover compensatory damages as set forth below.

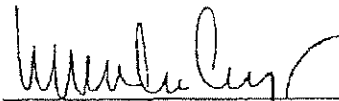
10. The defendants were negligent in the design, manufacture, testing, marketing, sale, supply, assembly and/or maintenance of the tree step.

11. As a direct and proximate result of the aforementioned defects and negligence, plaintiff, David M. Oberthaler, sustained suffered severe, disabling and permanent injuries, including but not limited to fractures of the spine, fractured wrist, right rotator cuff tear and closed head injury, emotional distress, pain and shock, as well as loss of enjoyment of life, a loss of earnings, an impaired earning capacity, a permanent loss of ability to perform usual and normal functions, and other injuries for which compensatory damages are permitted by law.

12. As a further direct and proximate result of the aforementioned defects and negligence, plaintiff, David M. Oberthaler, has required extensive hospital, medical, rehabilitative care and treatment, and will continue to require additional medical care and treatment into the indefinite future.

WHEREFORE, plaintiff, David M. Oberthaler, prays for judgment against the defendants jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000), along with interest, costs, and such other and further relief as this Court deems just and equitable.


Respectfully submitted,



David M. Paris, Esq. (0001358)
Ellen M. McCarthy, Esq. (0046757)
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Cleveland, Ohio 44113
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JURY DEMAND

A trial by jury is hereby demanded to determine all the issues.



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